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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 37th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 22 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

later: Mr. MARTIUS (Germany)

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The meeting was called to order at 10.45 a.m.

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES, INCLUDING:

(a) QUESTION OF HUMAN RIGHTS IN CYPRUS

(b) SITUATION OF HUMAN RIGHTS IN OCCUPIED KUWAIT

(agenda item 12) (continued) (E/CN.4/1991/3, 4, 27, 29-32, 33 and Add.1, 34, 37, 69, 70, 74 and 77; E/CN.4/1991/NGO/5, 27, 30, 31 and 35; S/21907; A/45/567, 578, 607, 630, 664 and 697; E/CN.4/1990/22 and Add.1, 24-26 and 28 and Add.1)

1. Mr. DAO (International Labour Organisation) said that, on the question of El Salvador, the ILO Freedom of Association Committee was considering a total of five complaints (Cases 1273, 1441, 1494, 1506 and 1524) concerning acts of violence against leaders and members of trade unions and members of cooperatives. The Committee had urged the Salvadorian Government to investigate the incidents, to adopt active measures to guarantee the proper exercise of trade union rights and to keep it informed on all those matters.

2. ILO had also informed the Commission the previous year of the complaint it had received under article 26 of the ILO Constitution concerning Romania's application of the 1958 Discrimination (Employment and Occupation) Convention (No. 111) to members of ethnic, cultural and religious minorities. The report shortly to be prepared by the committee of inquiry set up to examine that complaint would be submitted to the Governing Body of ILO in May 1991; it would then be published and made available to the Commission and the Sub-Commission on Prevention of Discrimination and Protection of Minorities when they next met. It was to be hoped that the amendments proposed by the International Labour Office to the bills relating to trade union rights, which were currently being discussed by the Office and the Romanian Government - as described by the Special Rapporteur, Mr. Voyame, in his report on the country (E/CN.4/1991/30, para. 121) - would be taken into account by the Romanian Government in order to ensure that the legislation was consistent with the relevant international standards.

3. In addition, the ILO Governing Body had before it a complaint against Iraq submitted by the Federation of Egyptian Trade Unions concerning Iraq's implementation of ILO Conventions Nos. 95, 105, 111 and 118 on conditions of employment, and three complaints against Iraq about violations of trade union freedom submitted by the Kuwaiti Government and employers' and workers' organizations.

4. ILO was, of course, particularly concerned about the fate of migrant workers and their families who had been in Kuwait and Iraq when the crisis had broken. Two reports by the Director-General of ILO had been submitted to the Governing Body in November 1990 and at its current session. The group concerned numbered 1.9 million workers, with 750,000 dependants, of whom 85 per cent had been resident in Kuwait. Approximately three quarters of those 2.8 million people came from Arab countries, one quarter from other Asian countries and less than 2 per cent from other countries. According to the most recent estimates, 2 million of those migrant workers, with their

families, had left Iraq and Kuwait, but that massive exodus was causing many financial and employment difficulties. The same problem affected Yemeni workers who had left, or were soon to leave, Saudi Arabia - where they numbered 460,000 - and the other Gulf States.

5. Given the seriousness of the problem, the Director-General of ILO had invited Bangladesh, Egypt, India, Jordan, Pakistan, the Philippines, Sri Lanka and Yemen to attend a ministerial conference in Geneva in November 1990, in which other concerned agencies had also taken part. The participants had stressed the need for increased technical cooperation on the part of ILO. Subsequently, the tripartite delegations of the countries which had taken part in the ministerial conference, along with delegations from Lebanon, Sudan and Thailand and observers for UNDP and other international agencies concerned, had attended a round-table discussion in Bangkok on 11 and 12 December 1990. The participants had again called unanimously for the establishment of a special fund under ILO auspices to assist the countries most affected in general and needy migrants in particular.

6. ILO had responded to the many urgent requests for assistance from Bangladesh, Egypt, Jordan, Pakistan, the Philippines, Sri Lanka, Yemen and other countries by setting up technical cooperation projects. Nevertheless, the Director-General of ILO had reiterated the appeal he had first made in November 1990 in view of the lack of funds to meet all the requests. In response to those appeals, Canada, Switzerland and UNDP had promised to contribute more than $US 1 million. The scale of the problem and the urgency of the situation certainly called for prompt and active solidarity on the part of the international community.

7. Mr. MBARUSHIMANA (Observer for Rwanda) regretted that many cases of human rights violations were still occurring, particularly in regions or countries where anachronistic policies and practices persisted, such as apartheid, racial discrimination and the denial of the right of peoples to self-determination, together with foreign interference, military aggression and foreign occupation. Rwanda remained committed to the principles of the Charter of the United Nations, the Non-Aligned Movement and the Organization of African Unity (OAU), which advocated non-interference, non-use of force in international relations, and respect for the sovereignty, territorial integrity and independence of all States.

8. Despite that situation, his delegation nevertheless had a feeling of satisfaction and optimism about the results achieved, particularly through the work of the Commission and the United Nations Centre for Human Rights, which had succeeded in fostering an awareness that would no doubt be given real impetus by the World Conference on Human Rights scheduled for 1993 and unreservedly supported by Rwanda.

9. The Rwandese authorities were determined to guarantee the entire population of the country full respect for all their rights and freedoms, and it was in that spirit that the authorities had confronted the distressing incidents resulting from the foreign military aggression to which Rwanda had been subjected since 1 October 1990. The regional conference on the problems of Rwandese refugees, held on 19 February 1991 in the United Republic of Tanzania, had adopted an important document entitled "Declaration of Dar es Salaam on the problem of Rwandese refugees". In the Declaration, his Government had reaffirmed that the Rwandese refugees had a legitimate right of

voluntary repatriation, and had promised to remove all obstacles preventing the return of the refugees and to guarantee them the right to participate fully in the democratic and political process in Rwanda. Appropriate measures would therefore be taken to facilitate their return, and a general amnesty would be declared for refugees who were in conformity with the definition contained in the 1951 Convention relating to the Status of Refugees and the 1969 OAU Convention governing specific aspects of refugee problems in Africa. When a cease-fire agreement had been signed, the amnesty would be extended to people who had committed crimes against the State before their departure or during their time abroad. The regional conference had also made an urgent appeal to the international community for the financial, technical and material assistance needed for the reintegration of the returnees in their own country, and the integration of Rwandese citizens who had decided to stay in their current country of residence and those who had taken other nationalities. Lastly, the Conference had requested OAU and UNHCR, in conjunction with the countries concerned, to draw up a plan of action to implement all the conference's decisions, including the decision to convene a donors' meeting within six months of the adoption of the Declaration.

10. His Government was thus counting on the support of the international community in helping it to fulfil those commitments. It particularly wished to thank the International Council of Voluntary Agencies, which had declared itself ready to contribute to the repatriation of the Rwandese refugees, and wished to assure the Council that all the measures taken during the current crisis had been fully consistent with human rights and Rwandese legislation, particularly the Rwandese Constitution, article 16 of which stated that all citizens were equal before the law without discrimination. Missions such as that by the International Committee of the Red Cross (ICRC) had been permitted to visit Rwanda to assess the situation.

11. The effective fulfilment of the commitments undertaken by Governments in the field of human rights depended not only on the political will of States, but also on the behaviour of individuals themselves, who had their own duties under both domestic and international law, such as the duty to respect the law, international peace and security, and the well-being and interests of others, the duty to refrain from propaganda in favour of war and incitement to national, racial or religious hatred, and the duty to promote and respect human rights and fundamental freedoms. Rwanda, which was moving towards a genuine pluralist democracy protected by institutional and legal guarantees, was more determined than ever to defend the cause of human rights, peace and development throughout the world.

12. Mr. SHARAF (Observer for Jordan) drew the Commission's attention to the human rights situation in southern Lebanon. Not content with violating the rights of the Palestinian people in the occupied Arab territories, Israel was infringing international humanitarian law, the International Covenants on Human Rights and the 1949 Geneva Convention relative to the Protection of Civilian Persons in Time of War by occupying part of the territory of Lebanon, a sovereign State Member of the United Nations, and driving Lebanese citizens from their homes. Israel persisted in its refusal to implement the many resolutions adopted by the United Nations, in particular Security Council resolutions 425 (1978) and 509 (1982), which called for the withdrawal of Israeli forces from Lebanese territory. On the contrary, Israel was continuing its illegal occupation of Lebanon, which was thus deprived of what had been a buffer zone, and was organizing and arming the mercenary force known as the

"South Lebanon Army". The actions of the Israeli authorities and their armed forces in southern Lebanon confirmed that it was their intention to stay there, and even to extend their occupation to other areas of the country. Moreover, it was particularly difficult for United Nations bodies to operate in the area.

13. A report prepared by the Secretary-General of the United Nations in January 1991 (S/22129) showed that the security forces and other forces in southern Lebanon had established themselves in exactly the same areas as the United Nations Interim Force in Lebanon (UNIFIL), some of whose positions had come under the control of the Israeli forces since the beginning of the occupation in 1982. The same report stated that the UNIFIL forces had themselves been attacked. Moreover, the Israeli authorities were considering building roads to prevent the civilian population from withdrawing and to allow their own forces to deploy rapidly, particularly in the north of the area they controlled.

14. Jordan condemned the human rights violations committed by Israel in southern Lebanon and the bombing of civilians, expulsions and other atrocities which were perpetrated there daily and were comparable with the inhuman practices to which the Israeli authorities subjected the Palestinian population of the occupied Arab territories, including the Golan Heights.

15. In view of the deterioration of the human rights situation in southern Lebanon, there was a more urgent need than ever for the Commission to condemn those practices and call for the implementation of all United Nations resolutions. In its resolution 1990/54 adopted at the previous session, the Commission had condemned Israeli practices in southern Lebanon, and requested the Secretary-General to bring the resolution to the attention of the Government of Israel and to invite it to provide all relevant information on its implementation. The Commission further requested the Secretary-General to report to it and to the General Assembly on the results of his efforts in that regard. Although Israel had an obligation to submit information on its implementation of the resolution, it had, as usual, failed to do so. Israeli forces must withdraw completely, immediately and unconditionally from southern Lebanon in order to allow the Lebanese Government to exercise its authority over its own territory. The Commission, which represented the conscience of humankind, had an obligation to recall that sacrosanct principle.

16. Mr. ABU-OSHBA (Observer for Saudi Arabia), reaffirming his delegation's desire to cooperate with the Commission, drew attention to the dramatic events which, on 2 August 1990, had shattered the world's confidence in truths it had believed to be inviolable. On that day, Kuwait had been the victim of a cowardly attack by a régime which it had thought its friend, an attack which had also encompassed the instruments, law and customs that had always governed relations between Arab States. Kuwait had been the victim of a massive invasion and the victim of the most primitive of human instincts, such as the instinct to snatch what one wanted.

17. The Baghdad régime had justified that attack by citing the appeal made by the provisional government installed after the popular revolution. On 8 August, that provisional government, which had in fact been made up of Iraqi forces, had called for the integration of Kuwait into Iraq. Baghdad had explained to an incredulous world that its intervention had been intended to reintegrate into the Iraqi nation the province which colonialism had taken

away from it. In fact, it was colonialism which had given Iraq its present shape, and when Iraq claimed that it was colonialism which had given Kuwait to the Al-Sabah family, it was forgetting that, long before the advent of Iraq, the Governor of Kuwait had signed a treaty with the United Kingdom guaranteeing Kuwait's independence. Nothing had happened since to invalidate that agreement, or Kuwait's ownership of the two islands which Iraq had seized. Saddam Hussein, on the other hand, had violated the 1975 agreement he had signed with Iran, as well as the treaties allying Iraq to Saudi Arabia. The Iraqi administration had evaded its obligations under both international public law and customary law because they had not been conducive to its interests.

18. There was no doubt that what was known about the atrocities committed by Iraq still fell far short of the reality. The Baghdad régime had inflicted endless sufferings on its own people, and Iraqi soldiers had lost all sense of humanity and behaved with the basest savagery, as shown by the reports of Amnesty International, document E/CN.4/1991/70 on the situation of human rights in occupied Kuwait and the reports of the competent Arab commissions. Saddam Hussein had blood on his hands. He had added two further offences to the list of those subject to capital punishment: giving refuge to foreigners and failure to hang his portrait in one's home. That was all completely contrary to Islamic law, which stated that killing an innocent man was equivalent to killing the whole of mankind.

19. The Baghdad régime was also pillaging Kuwaiti property and installations, dismantling them for shipment to Iraq or even destroying them. The Commission had an obligation adopt a resolution condemming the human rights violations committed by Iraq in Kuwait.

20. He wished to make a clear distinction between the Baghdad régime and the Iraqi people, who formed an integral part of the Islamic world; their future was linked with that of Saudi Arabia and they were the victims of their own leader.

21. He also wished to call to the Commission's attention the sufferings which Israel was inflicting in southern Lebanon, where ICRC was not allowed to visit detention centres. The international community must display great severity and demand the withdrawal of Israeli forces from all the occupied Arab territories.

22. Mr. WALKER (Australia) expressed his conviction that, if one looked beyond the tragic war in which the international community and the United Nations were currently engaged, one would see the advent, sooner or later, of a new world order where more effective mechanisms would guarantee the preservation of peace, observance of fundamental human rights, genuine democracy and a more effective international economic system. It was, therefore, incumbent upon everyone - the Commission, its member States, other States and the non-governmental community - to find a way of guaranteeing as effectively as possible the promotion and protection of human rights in that new world order. The risk of human rights violations had by no means disappeared, as had already become clear in some areas, where the authorities had been ill-prepared to deal with the enormous difficulties which had followed the easing of repression.

23. The mechanisms which the Commission had established over the years must be maintained and, where necessary, expanded, but they must also be adapted to suit changes in the international climate. It was heartening to note the increasing awareness in the international community that the United Nations and its Member States had an important role to play in guaranteeing full respect for human rights, as shown by the common pledge contained in Article 55 of the Charter of the United Nations and in the Universal Declaration of Human Rights, the two International Covenants and other international human rights instruments, as well as the extensive work of the Commission and other United Nations bodies over many years and the practice of individual governments of raising human rights issues of concern to them. To put it simply, human rights were universal. Consequently, Australia could not share the view that action to ensure respect for human rights constituted interference in the internal affairs of States. That claim could not be sustained by selected quotation from the Charter, in isolation from the broad and fundamental purposes to which all member States had pledged themselves.

24. However, unduly coercive action would not be appropriate either. The competent United Nations bodies should, in the short and medium terms, agree on non-confrontational ways of promoting human rights, particularly through preventive measures, give serious consideration to the concerns of all countries and regions and the views of non-governmental organizations (NGOs), ensure that the system for protection of human rights, and the United Nations in general, promoted democratic systems of government, which were a key factor in respect for human rights, and lastly view grave and systematic human rights violations less from a political angle and more from the angle of the action to be taken. Such an approach should guide the work of the World Conference on Human Rights, to be held in 1993, and lead to the establishment of markedly improved structures by the end of the century.

25. Priority must be given to cooperation within the international community, but delegations should not remain silent in the face of serious violations.

26. Before Iraq had made clear its contempt for international law and opinion by invading Kuwait, Australia had already, at previous sessions of the Commission, condemned Iraq's atrocities, in particular the use of chemical weapons against its own citizens, including the Kurdish minority. Since the invasion, it had deplored in the strongest possible terms the abuses perpetrated by Iraq against the inhabitants of Kuwait. Australia would favour the adoption of a strongly-worded resolution on those human rights violations at the current session and remained convinced that a special rapporteur on the human rights situation in Iraq should be appointed, as the Sub-Commission had recommended at its forty-second session.

27. Australia wished to work towards respect for human rights in its own region, Asia and the Pacific, and would like to see cooperation established between the Commission and a number of countries where the situation gave cause for concern. In Myanmar, for example, the desire of the people for a civilian government had been disregarded, and it seemed clear that the military régime intended to stay in power. Aung San Suu Kyi and U Tin Oo, who had been detained before the May 1990 elections, were still deprived of their freedom, along with other leaders of their party, the National League for Democracy (NLD), and opponents of the Government; many cases of torture had been reported. Only genuine democratic change could resolve the crisis.

28. In China, it was gratifying to note the relatively light sentences imposed on many of the people detained after the acts of repression of June 1989, but not all the accused had been treated with such "leniency". It was also deeply disturbing that Chinese citizens had been prosecuted merely for exercising their fundamental rights.

29. In Sri Lanka, all ethnic groups had been caught up for years in the tragic cycle of violence. While the causes of the conflict were complex, and whatever the grievances of the parties involved, there could be no justification for their flouting human rights. However, the country seemed to be recovering somewhat, as shown by its invitation to the Working Group on Enforced or Involuntary Disappearances to visit Sri Lanka, the establishment of an independent commission of inquiry into cases of missing persons and the appointment of a special task force to report directly to the President on human rights violations.

30. In East Timor, there had been reports of a number of human rights violations in the latter part of 1990, but it must be acknowleged that the overall situation had improved and that the Indonesian Government had discussed the problems openly. However, it was important to remain vigilant.

31. Papua New Guinea, Australia's closest neighbour, had in 1990 been the scene of a secessionist campaign on the island of Bougainville, which had been accompanied by violence and human rights violations by both sides. A settlement was on the way, however, in the form of the Honiara Declaration on peace, reconciliation and rehabilitation. Australia was ready to play its part in the implementation of the Declaration.

32. His Government deplored the two coups d'état which had taken place in Fiji in 1987. The Constitution promulgated in 1990 was disappointing because, although it marked a return to representative government, it also introduced discrimination into Fiji's political system.

33. Australia had welcomed the cooperation between the Islamic Republic of Iran and the Commission's Special Representative since the forty-fourth session of the General Assembly. In its view, the primary purpose of United Nations mechanisms should not be to condemn States. In his well-documented and constructive report, the Special Representative had noted that the Government of Iran had shown itself more prepared to cooperate, but also that human rights violations continued and that the situation of some religious minorities, such as the Baha'i community, was still highly unsatisfactory. The Commission should extend the Special Representative's mandate and call upon Iran to increase its cooperation, in order to comply with international human rights standards.

34. Although Australia acknowledged the genuine security problems facing Israel, it continued to be concerned at the human rights situation in the occupied Arab territories and called upon Israel to show maximum restraint. It regretted Israel's recent decision to resume the deportation of Palestinians from the occupied territories, and deplored the use of administrative detention and the imposition of excessive curfew restrictions in the past month.

35. Under agenda item 12, the Commission's attention was also drawn to the situation in other countries. His delegation was dismayed at the deterioration of the human rights situation in Guatemala and considered that the Commission should continue to keep it under review. It believed that the mandates of the special rapporteurs on El Salvador, Afghanistan and Romania should be renewed, and in the case of El Salvador, it hoped that everything possible would be done to expedite the trial of those charged with the murder of six Jesuit priests and two other people in November 1989. As to South Africa, his delegation regretted the continuing problems in the country, while welcoming the positive changes which had been made and the reforms announced by the South African Government.

36. Although Australia had welcomed the political and economic reforms which had been implemented in the USSR in recent years, it deplored the Soviet military intervention in the Baltic States. That intervention was not conducive to the peaceful and negotiated solution to the problem of the Baltic Republics which the USSR claimed to be seeking.

37. Australia hoped that the shadow currently hanging over the world would not persist and that the advances achieved in the field of human rights in several countries would continue. Australia stood ready to play an active and constructive role in the transition towards a new and better era for human rights.

38. Mr. IOMIC (Observer for Chile) said that the information contained in the reports of the Special Rapporteur on torture (E/CN.4/1991/17), the Working Group on Enforced or Involuntary Disappearances (E/CN.4/1991/20 and Add.1) and the Special Rapporteur on the practice of administrative detention (E/CN.4/Sub.2/1990/29/Add.1) submitted to the Commission under agenda item 10 showed that, despite some progress, certain practices which constituted violations of human rights remained widespread in various parts of the world. The Commission must therefore continue to express its concern and take appropriate measures to put an end to those violations and protect the victims.

39. The United Nations had not remained indifferent to the plight of the Chilean people during their suffering and, as President Aylwin had stated in September 1990, its action had certainly helped to restore democracy in Chile. For 17 years, all those who had committed themselves to defending human rights in Chile - himself included, as he had been the lawyer for the "Vicaría de la Solidaridad" organization - had looked forward with hope to the reports of the Working Group and the special rapporteurs and to the resolutions adopted by the General Assembly and the Commission, and had found great moral comfort in them. The government in power at the time had also awaited those reports and resolutions, but with apprehension, and shortly before their publication or adoption had hastened to announce measures aimed at improving the enjoyment of certain fundamental freedoms or easing the repression so as to project a better image of itself to the community of nations through the organs of the United Nations and OAS or through non-governmental organizations. The United Nations and the Commission could therefore take pride in the fact that their action had really helped to save lives. Towards the end of the military régime, the Government of Chile had finally consented to conclude an agreement with ICRC, allowing it to visit places of detention and interview prisoners without witnesses. Although the reports on those interviews were confidential, there was no doubt that the treatment of detainees had markedly improved owing to the presence of the ICRC delegates.

40. His delegation spoke of Chile's experience, not only to illustrate the suffering endured by a people when their human rights and fundamental freedoms were not respected, but also in order that all members of the Commission might fully appreciate and utilize all the machinery and institutions established at the international level to promote and guarantee the legal and moral aims of the Charter, namely, the respect for human dignity which was essential for strengthening international peace and security.

41. Mr. Martius (Germany) took the Chair.

42. Mr. SATER (Observer for Bahrain) said that on 2 August 1990 Iraq had invaded a peaceful Muslim Arab country which had always fulfilled its international responsibilities and its duties as a member of the Arab and Islamic nation. As a result of Iraq's occupation and subsequent annexation of Kuwait, more than 250,000 Kuwaiti citizens and more than 1 million nationals of other countries had been forced to flee the country. More than 200,000 Kuwaitis were now suffering under that occupation in inhuman conditions as the Iraqi forces committed criminal acts against the Kuwaiti people, including torture, rape, murder and arrests, and turned hospitals, schools and universities into military quarters and demolished the country's infrastructure, in flagrant violation of the 1949 Geneva Convention and all the international human rights instruments, with the object of destroying the national identity of Kuwait and erasing it from the political map. The Government of Iraq had moreover announced that its intention was to carry out a redistribution of wealth, yet it knew that all the Gulf States, including Kuwait, had always provided assistance not only to the Islamic Arab countries, but to all developing countries. Iraq had itself received $45 billion from the Gulf States in eight years and was one of the richest countries in the Arab world.

43. To divert the attention of the Arab and Islamic countries and the international community from its crime of aggression against Kuwait, the Iraqi régime had tried to exploit the Muslim religion by presenting the involvement of the coalition forces in the liberation of Kuwait as a war of infidels against Islam. But what had it done for Islam by gassing thousands of Kurds, attacking Iran and expelling thousands of Iraqis? Islam had nothing to do with those unjust practices. The Iraqi régime had also tried to confuse the issue by linking the Palestinian cause with the question of Kuwait yet it knew perfectly well that Kuwait had been and would continue to be in the forefront of the countries which supported that just cause. That was clearly just one means it was using to achieve its ends.

44. The Iraqi régime would bear alone the consequences of the war now raging in the Gulf, a war it had imposed on the international community by rejecting all the diplomatic efforts made to avert it and by refusing to implement the resolutions adopted by the Arab and Islamic countries and the international community as a whole, which all called for the withdrawal of Iraqi forces from Kuwait.

45. Mr. VITTORI (Pax Christi International) said that his organization had consistently denounced the aggression of Indonesia against East Timor for many years and appealed to the conscience of the international community to secure the implementation of Security Council resolution 384 (1985) calling on Indonesia to withdraw all its forces without delay from that territory. Although for a long time viewed with indifference, the aggression by Indonesia

was today being compared more and more with Iraq's invasion of Kuwait. Out of desperation, young Timorese, following the example of the young Palestinians, were now waging a war of stones and the United Nations could not, without discrediting itself, apply different standards in the cases of East Timor and Kuwait. His organization renewed the appeal made by Monsignor Belo for a referendum to be held in East Timor under United Nations auspices to enable the Timorese people to make their choice in complete freedom.

46. Pax Christi International, which had always denounced violence wherever it originated and condemned terrorism whatever the cause it purported to defend, was alarmed by the information reaching it about the situation on the Jaffna peninsula in Sri Lanka, which was being subjected to intensive bombardment by the Sri Lankan forces. His organization did not mean to condemn the Government of Sri Lanka unilaterally, but simply called for the conflicts to be resolved without violence and through negotiation. The United Nations should take action to stop that intolerable carnage and the unjust suffering of innocent people caught up in the crossfire, in particular by appointing a special rapporteur for Sri Lanka.

47. On the question of the war in the Gulf, Pax Christi was convinced that there could be no such thing as a just war and that the mission of the United Nations was to prevent war and promote peace. The populations of Kuwait and Iraq were the first victims of a devastating confrontation, but the human rights of other people and communities also risked being sacrificed to the interests of a coalition which a number of States had joined in the hope of obscuring their own failings with respect to international law and morality. There was a danger, for example, that the Kurdish people, against whom the Iraqi régime had not been afraid to use chemical weapons in 1988, would be forgotten at the end of the conflict. But the Kurdish question concerned not only Iraq as it was in Turkey, a member of NATO and the anti-Iraq coalition, where the majority of Kurds lived and were being subjected to cruel measures of repression. Pax Christi supported the action taken in support of the Kurds by various NGOs and requested the Commission to call expressly on the democratic States not to hand over Kurdish asylum-seekers in their territory to Turkey.

48. His organization was also concerned about the fate of Lebanon, which was occupied by both Syria and Israel. Would the coalition allow the remains of that martyred people to be shared out when the war in the Gulf was over? Concerning Iran, his organization supported the report submitted by Amnesty International on that country because Iran's astute diplomacy could not cover up an intolerant régime that was one of the most repressive in the world. The situation in Sudan, a country mentioned in the report by Mr. Kooijmans, the Commission's Special Rapporteur on torture (E/CN.4/1991/17), was also very disturbing. Mr. Kooijmans should continue his mission and it was to be hoped that he would be able to observe the progress about which the spokesman for Sudan had felt obliged to give assurances to the Commission. In El Salvador, the arrests, abductions and killings in which the police, military and paramilitary forces were implicated were continuing with complete impunity. Those, for instance, who had killed Monsignor Romero in 1980 and six Jesuit priests and two women in November 1989 at the University of Central America had still not been officially identified and the inquiries were being conducted in such a way as to prevent the truth from being revealed. The United States had an important role to play in the matter as the testimony of the American major, Erik Buckland, could be decisive. In Colombia, the army too often

attacked innocent people in its legitimate struggle against drug traffickers. The Government of Colombia should in particular identify without delay those responsible for the killings of Ramon Rojas Erazo, his employee and a Swiss missionary, Sister Hildegarde Feldmann, on 9 September 1990, and bring them to trial.

49. Lastly, his organization expressed its gratitude to the United Nations and the Commmission for their contribution to the orderly conduct of elections in Haiti. It felt nevertheless that the mandate of the Special Rapporteur for Haiti should be extended in view of the fragility of that new democracy.

50. Mr. ABDULLAH MAHMOUD (Observer for the United Arab Emirates) said that the hopes raised by the end of the cold war and the détente in international relations that the world would see a new era marked by understanding among peoples and respect for international laws and practices had been dashed by Iraq's invasion of Kuwait on 2 August 1990. The occupation and annexation of Kuwait by the Iraqi forces constituted a flagrant violation of international law and Islamic principles and a denial of the most fundamental human rights. Iraq's rejection of all the efforts by the Arab countries and the international community to avert the war and its refusal to implement the resolutions adopted by the United Nations Security Council had dragged the world into a terrible war. Iraq's aggression against Kuwait was contrary to the teachings of Islam, which held that everyone must respect his neighbour and that Muslims must never attack other Muslims. It also ran counter to the purposes and principles set forth in Article 2, paragraphs 3 and 4, of the United Nations Charter, which required the States Members of the United Nations to settle their international disputes by peaceful means and refrain from the threat or use of force against the territorial integrity or political independence of any State.

51. In annexing Kuwait, the Iraqi régime had violated many international agreements, in particular the fourth Geneva Convention of 1949, the Pact of the League of Arab States, the economic cooperation treaty between the Arab States and the agreement of 1963 recognizing the independence and complete sovereignty of the State of Kuwait. It had furthermore violated all the fundamental rights of the Kuwaitis and attacked the very right to existence of an entire people. Not content with destroying Kuwait's economic, political and cultural structures, Iraq had looted places of worship and hospitals, arrested and expelled Kuwaiti citizens and carried out summary executions. Foreigners working in Kuwait had also fallen victim to those practices and lost everything. Iraq had even damaged the environment by polluting the waters of the Gulf.

52. Over a period of five months the international community and the Arab countries had spared no effort in trying to avert war. At a summit meeting on 10 August 1990, the Arab countries had adopted resolution 915, which had not been accepted by Iraq. The Organization of the Islamic Conference had also adopted a resolution condemning the aggression against Kuwait and calling for the withdrawal of Iraqi troops. That resolution remained a dead letter. As to the 12 resolutions adopted by the Security Council, they had all been rejected by Iraq. The efforts made by many leading figures in the Arab world and by the Secretary-General of the United Nations had likewise yielded no result.

53. The CHAIRMAN said that he regretfully had to interrupt the speaker, who had used up the time allotted for his statement.

54. Mr. SIBAL (India), speaking in exercise of the right of reply, said that the delegation of Pakistan had made unfounded allegations against his country. First of all, there was no such entity as "Indian-occupied Jammu and Kashmir" because that State was and always would be an integral part of India and the right of self-determination was inapplicable to territories that formed an integral part of a sovereign and independent State.

55. His delegation rejected Pakistan's allegation that there had been a spontaneous uprising of the Kashmiri people which had been suppressed with massive and indiscriminate force by the Indian authorities. The presence of military and paramilitary forces in the region was necessary to protect the people of the State of Jammu and Kashmir against acts of terrorism instigated from across the border.

56. The security forces stationed in Kashmir had often been accused by the media of human rights violations. The State Government of Jammu and Kashmir had investigated those allegations and found the majority of them to be false or exaggerated. In the other cases, disciplinary action been taken and some paramilitary and police personnel had been suspended. He also wished to point out that militants had bullied some citizens into giving a distorted account of events to journalists and human rights organizations, and had often chosen public places for exchanging fire with the security forces in order to maximize civilian casualties and obtain propaganda mileage.

57. His delegation urged Pakistan to abandon its paradoxical and dangerous policy of, on the one hand, promoting human rights in the State of Jammu and Kashmir and, on the other, encouraging terrorism in that region. The role played by Pakistan in the disturbances in the State of Jammu and Kashmir was well known. The United States Department of State indicated in its report on human rights in India that armed militants were crossing the border from Pakistan, and in its report on Pakistan referred to human rights violations in that country, especially by the security forces and police. Pakistan was thus in no position to point its finger at its neighbour.

58. The delegation of Pakistan had claimed that the curfew imposed in the major towns of the State of Jammu and Kashmir at the height of the disturbances had disrupted normal life. It had also claimed that food, medical and sanitary facilities were scarce and that there was a news blackout. He categorically rejected those allegations.

59. India was pursuing a policy of good-neighbourliness towards all States in the region, including Pakistan, with which it had signed the Simla Agreement. It believed that the two countries should work to restore mutual confidence in their relations. Unfortunately, Pakistan was bent on aggravating the situation, especially by interfering in India's internal affairs.

60. Mr. VILLARROEL (Philippines), speaking in exercise of the right of reply, thanked the representative of the International Federation-Terre des hommes for having drawn the Commission's attention to the numerous human rights violations continuing to take place in the Philippines. His Government commended the activities of the human rights organizations in the Philippines and counted on the cooperation of Terre des hommes to remain informed of violations of fundamental rights in the Philippines and to bring those responsible to justice. His Government would provide written explanations regarding the cases mentioned by the representative of Terre des hommes in her

statement. He nevertheless deplored the fact that she had seen fit to remind his Government of what a democracy was. Five years previously, the people of the Philippines had overthrown the dictatorship of President Marcos, not by using force but by making their voice heard and had placed Mrs. Aquino at the head of the country. If that was not a democratic government, then what was it?

61. Mr. AL-OTHMAN (Observer for Kuwait), speaking in exercise of the right of reply, denounced the allegations made by the representative of Iraq and said he had been surprised to hear him say that colonialism was responsible for the way the borders were drawn between Iraq and the neighbouring countries. Kuwait, for its part, adhered to the 1963 agreement which recognized its full sovereignty and independence.

62. How could Iraq say that the Kuwaiti régime had conspired against it to destroy the country economically when Kuwait had lent Iraq $14 billion during the war against Iran and opened its ports to Iraq.

63. On the question of oil, he pointed out that Iraq had increased its production without keeping to the established quotas. Kuwait had tried to find a solution to the problem and had taken part in the negotiations at Jeddah. Iraq had then decided to invade it.

64. He was surprised that the delegation of Iraq had forgotten the scenario of the annexation of Kuwait. The Iraqi régime had first claimed to have given birth to a revolution. It had subsequently tried to set up a mercenary government, then had declared Kuwait a republic, thereby recognizing that it was not part of Iraq, and had eventually tried to annex it outright. The delegation of Iraq was now describing the Members of the United Nations which had voted in favour of the Security Council resolutions as puppets. Would it also describe as puppets the 144 States which had supported General Assembly resolution 170/45 on the human rights situation in occupied Kuwait?

65. The CHAIRMAN said that he regretfully had to interrupt the speaker, who had used up the time allotted for his statement.

66. Mr. BENHIMA (Morocco), speaking in exercise of the right of reply, said that he took strong exception to the remarks made by the representative of Centre Europe-Tiers Monde (CETIM). He could excuse her ignorance of Morocco's history, its cultural heritage and contribution to enriching the civilization of the Mediterranean region, but found it shameful that she was manipulating the humanitarian cause to satiate her hatred and denigrate a country she described as a hell. He was all the more shocked by the references in her statement to the southern provinces, which had enviable social and economic infrastructures and had been the recipients of substantial investment.

67. Regarding the problem of the 200 prisoners of war, in his reply to the accusations made by the representative of CETIM in August 1990 before the Sub-Commission, he had stated that his discussions with Mr. Sommaruga and some of his associates on the question of handing the prisoners over to the competent Moroccan authorities had yielded no result since behind what should have been a humanitarian gesture there had been an attempt to gain political and media advantage for the opponents of Morocco, which had been unable to go along with that masquerade. The failure of the ICRC efforts was therefore due to blunders for which Morocco was not responsible.

68. As he had indicated many times, his Government respected NGOs which worked for human rights, but denounced those which attempted to abuse power under the pretext of condemming excesses.

69. Mr. KAMAL (Pakistan), speaking in exercise of the right of reply, said that the representative of India had sought in his statement to cover up the horrible acts committed by his country against the peaceful population of Kashmir by accusing Pakistan of involvement in the uprising currently taking place in the State of Jammu and Kashmir. Those unfounded allegations were aimed at diverting attention from the brutal and bloody acts being perpetrated by the Indian security forces to crush the Kashmiri people's legitimate aspirations for self-determination. A territory that was annexed did not automatically become an integral part of the State that annexed it. India would not succeed in hiding the real facts because many objective and impartial reports showed that the Kashmir uprising was a national uprising and that it was being suppressed harshly by the Indian military forces. His delegation wondered why the representative of India had chosen yet again not to reply frankly to the Commission's offer to appoint an independent body to investigate those allegations. Pakistan remained committed to seeking a peaceful settlement of the problem, based on the United Nations resolutions which recognized the right of the people of the State of Jammu and Kashmir to decide their own future, and called on India to end its policy of repression in Kashmir, which was a flagrant violation of human rights.

70. Mr. ERMACORA (Special Rapporteur on the situation of human rights in Afghanistan), responding to the critical comments on his report (E/CN.4/1991/31) made by the representative of Pakistan, said that the figure of 10,000 refugee families reportedly stopped in Kunar province and sent back to Pakistan (para. 24 (a)) had been transmitted to him by very reliable sources, but he recognized that it might be too high. Regarding the Pakistan representative's objection to what was said about the safety of refugees in paragraph 89 (e) of the report, he pointed out that he had also mentioned the danger refugees faced from aerial bombing. Furthermore, he had concrete evidence that important personalities from among the refugee population had been abducted or murdered.

71. Turning to the criticism regarding the interpretation of the new law for forming a Loya Jirgah (paras. 82 et seq.), he explained that his report was based on a rough translation of the text and that he had recently received a complete translation. He recognized, having studied it, that the participation of women in the selection procedure was not expressly excluded, but some passages of the text did admit of that interpetation. Concerning the refugees, there was nothing to show definitely that they would be able to take part in general elections; it was merely stated that a number of representatives of the Loya Jirgah would be selected from among them. The question nevertheless required further study and, if necessary, corrections would be made.

72. He thanked the delegation of Pakistan for its observations on the report and would welcome any other objective criticism that would help to initiate a substantive discussion with delegations. The question of human rights in Afghanistan was a very complex one that was not made any easier by the abduction of ICRC staff. He was pleased that the representative of Pakistan agreed with him that only a political solution could really change the human rights situation in Afghanistan.

The meeting rose at 1 p.m.